

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

SUSAN B. HANKS,

Plaintiff

VS.

NO. 5:05-CV-138 (WDO)

DR. WILLIAM RAGAN, *et al.*

Defendants

PROCEEDINGS UNDER 42 U.S.C. §1983
BEFORE THE U. S. MAGISTRATE JUDGE

O R D E R

Plaintiff SUSAN B. HANKS has filed a motion herein captioned **PLAINTIFF'S MOTION FOR DEFAULT**. Tab #23. However, a review of this motion reveals that it is not a motion asking that a default be entered as to an existing defendant, but rather a motion seeking to add parties defendant, to-wit: **RAYMOND HEAD, DEPARTMENT OF CORRECTIONS**, and the **STATE OF GEORGIA**.

42 U.S.C. §1983 provides in part:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. (Emphasis added).

Clearly, the **DEPARTMENT OF CORRECTIONS** and the **STATE OF GEORGIA** are not *persons* within the meaning of Section 1983. Hence, no action can be maintained against them; they are not proper parties to be added to this litigation. In addition, no allegations have been stated against them. Furthermore, no allegations have been stated against proposed defendant **RAYMOND HEAD**. For that reason, he likewise cannot be added as a party defendant.

Accordingly, plaintiff's motion (Tab #23) is DENIED.

SO ORDERED AND DIRECTED, this 2nd day of SEPTEMBER, 2005.



CLAUDE W. HICKS, JR.
UNITED STATES MAGISTRATE JUDGE